



# Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 536

## IN THE MATTER OF JEROLD GNAZZO

### DISPOSITION AGREEMENT

The State Ethics Commission ("Commission") and Jerold Gnazzo ("Gnazzo") enter into this Disposition Agreement ("Agreement") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On September 14, 1993, the Commission initiated, pursuant to G.L. c. 268B, §4(j), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Gnazzo. The Commission has concluded its inquiry and, on May 9, 1995, found reasonable cause to believe that Gnazzo violated G.L. c. 268A.

The Commission and Gnazzo now agree to the following findings of fact and conclusions of law:

1. At all times material to this matter, Gnazzo was the Massachusetts Registry of Motor Vehicles ("RMV") Registrar. As such, he was a state employee within the meaning of G.L. c. 268A, §1.
2. At all times material to this matter, Gnazzo's wife, Jane S. Gnazzo ("Jane"), was the president of Krisco Corporation. Krisco Corporation owned and operated a MAACO Autobody shop located at 444 Somerville Avenue in Somerville, Massachusetts. According to Gnazzo, neither Jane nor Gnazzo had an ownership interest in Krisco Corporation.<sup>1/</sup>
3. In the fall of 1992, the Massachusetts Attorney General's ("AG") Environmental Strike Force ("Strike Force"), working closely with the Division of Environmental Law Enforcement ("DELE") of the Executive Office of Environmental Affairs,<sup>2/</sup> commenced a criminal investigation into alleged illegal hazardous waste transfers at the above Somerville MAACO shop.
4. On or about April 28, 1993, in furtherance of this investigation, the Strike Force issued a subpoena *duces tecum* to the "Keeper of the Records, Krisco Inc." at 444 Somerville Avenue, Somerville, Massachusetts.
5. Jane was furnished with a copy of the subpoena either by mail or by facsimile at her usual place of business.
6. Gnazzo obtained a copy of the above subpoena from his wife.
7. The subpoena did not identify the Strike Force. The names of an assistant attorney general and an environmental police officer were identified on the subpoena.
8. Having assumed the subpoena had been authorized by DELE, on or about May 5, 1993, Gnazzo telephoned the DELE director and asked him to come to his office.<sup>3/</sup> When the DELE director arrived at Gnazzo's office, Gnazzo showed him the Strike Force subpoena. The DELE director informed Gnazzo of the relationship between DELE and the Strike Force.

9. Gnazzo explained to the DELE director that he, Gnazzo, knew that there had been an ongoing investigation into matters related to the disposal of paints and other hazardous substances at the Somerville MAACO shop, but that he, Gnazzo, understood that the situation had been investigated and that he, Gnazzo, believed the matter was being resolved administratively. Gnazzo further explained that he was concerned that the subpoena had targeted his wife, and through her Gnazzo himself, solely for political reasons.

10. Gnazzo asked the DELE director to find out whether the case had substance or if it was politically motivated. The DELE director agreed to do this.

11. Gnazzo did all of the foregoing on behalf of his wife and the Krisco Corporation (his wife was still named Krisco Corporation's president).

12. Later that same day, the DELE director telephoned a DELE State Police lieutenant assigned to the Strike Force and asked to see her at his office. The DELE director was the DELE lieutenant's supervisor. When the DELE lieutenant arrived at the DELE director's office, the DELE director handed her a copy of the MAACO subpoena he had received from Gnazzo. The DELE director related to the DELE lieutenant the information Gnazzo had told him, and expressed Gnazzo's concern that the DELE case against Krisco Corporation and Jane was politically motivated.

13. The DELE lieutenant told the DELE director that the investigation was substantive and was not motivated by politics.

14. The DELE director thereafter returned to Gnazzo's office, where the DELE director told Gnazzo what the DELE lieutenant had said. The DELE director and Gnazzo both testified that Gnazzo did not ask the DELE director to take any additional action.

15. On August 11, 1993, the AG's office announced an indictment against the Somerville MAACO shop, arising out of the alleged illegal disposal of paints and other hazardous substances used in the day-to-day operation of the auto body shop.

16. Jane was not named in the indictment.

17. Section 4(c) of G.L. c. 268A prohibits a state employee from acting as agent for anyone other than the Commonwealth or a state agency in connection with any particular matter in which the Commonwealth or state agency is a party or has a direct and substantial interest.

18. The Strike Force's determination to conduct a criminal investigation into alleged illegal hazardous waste transfers at the Somerville MAACO shop was a particular matter<sup>4/</sup> in which the Commonwealth was a party or had a direct and substantial interest. When Gnazzo made inquiries to the DELE director in relation to the investigation on behalf of his wife and the Krisco Corporation, he acted as agent for someone other than the Commonwealth in connection with a particular matter in which the Commonwealth was a party. Therefore, Gnazzo violated G.L. c. 268A, 4(c).

19. Section 4 reflects the maxim that a person cannot serve two masters. Whenever a state employee acts on behalf of private interests in matters in which the state also has an interest, there is a potential for divided loyalties, the use of insider information and favoritism, all at the expense of the state. See generally *EC-COI-92-4; 82-176*. An inquiry into an ongoing sensitive criminal investigation raises such concerns, especially when made by a high-ranking public official like the RMV Registrar.<sup>5/</sup>

20. Gnazzo cooperated with the Commission's investigation.

In view of the foregoing violation of G.L. c. 268A by Gnazzo, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Gnazzo:

(1) that Gnazzo pay to the Commission the sum of five hundred dollars (\$500) as a civil penalty for violating G.L. c. 268A, §4(c);

(2) that Gnazzo waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: November 14, 1995

<sup>1/</sup> At all times materials to this matter, Jane maintained a usual place of business at 450 Albany Street, Boston, Massachusetts. According to Gnazzo, Jane had no knowledge of or responsibility for the day-to-day operations of the auto body repair business at the Somerville MAACO shop.

<sup>2/</sup> DELE officers are assigned to the AG Strike Force. The Strike Force investigates environmental violations allegations and works with the AG through prosecution. The Strike Force officers report to AG personnel but continue to be subject to a certain amount of control and supervision by DELE.

<sup>3/</sup> Gnazzo and the DELE director had their offices in the same building on Nashua Street in Boston.

<sup>4/</sup> "Particular matter," any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).

<sup>5/</sup> A state employee, however, is not prevented from acting as agent for or otherwise aiding or assisting members of his immediate family, provided the state employee receives the prior approval of the state official responsible for having made the appointment to the position held by the state employee in question. See *G.L. c. 268A, §4(c)*. The Registrar is appointed by the Governor. This was not done by Gnazzo.

Even if Gnazzo had obtained the Governor's approval before acting, he would have nevertheless violated §4 because the exemption would not apply to inquiries made on behalf of Krisco Corporation.